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No. 80-2027

In the
Supreme Court of the United States
October Term, 1980

WALTER L. BOYD,
Petitioner,
vs.
THE PEOPLE OF THE STATE OF ILLINOIS,
Respondent.

On Petition For A Writ Of Certiorari To The Appellate Court Of Illinois, First District

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

Walter Boyd, your petitioner, took the stand and testified he went to the home of Tyrone Thomas, a major narcotics dealer, to exchange drugs he had purchased for Oliver Holiday that Holiday had com-

plained were of very poor quality. Walter was cross examined for over an hour, and n he steadfastly denied that he had ever told Investigator Rochowicz or Assistant State's Attorney Griffith that he had gone to Tyrone's apartment with Holiday to "rob" or "rip off" Tyrone. The jury deliberated for two days. The trial judge observed that this was a most difficult case when he thanked the jury for their service.

The State's Brief in Opposition attempts to obscure the fact that the only substantial evidence against Walter was the admitted hearsay testimony of a statement allegedly made to a police officer by a person who could not be called as a witness at trial because he was dead from a lethal overdose of heroin. To characterize that testimony as "harmless error beyond a

reasonable doubt" flies in the face of every decision of this court regarding the application of the harmless error rule.

There can be no doubt that this testimony tipped the scales of justice and resulted in a grave injustice of constitutional proportion.

Contrary to the State's Brief in Opposition, Walter Boyd never confessed. He never confessed to murder, and he never confessed to robbery.

Whether Walter told Investigator Rochowicz or Assistant State's Attorney Griffith that he went with Holiday to "rip off" Tyrone was a question of fact for the jury. The length of the jury's deliberations coupled with the three requests for testimony that the jury sent to the judge during those deliberations clearly shows

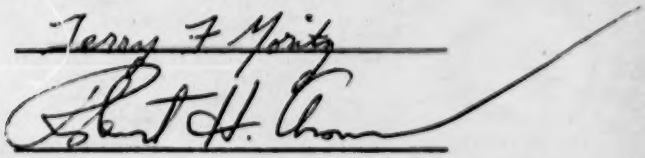
that the hearsay testimony regarding the alleged statement of a dead man most probably resulted in the verdict of guilty.

The State contends at page 13 of its Brief that, "...it cannot be said that the jury's verdicts would have differed had the jury not heard the content of Holiday's statement to Rochowicz... [That] the content of Oliver Holiday's statement to Rochowicz was not crucial or devastating to the defense." The writer of the State's brief is guessing. He was not at the trial. This writer was there and can assure this Court that the effect of that hearsay was crucial and devastating. This grave miscarriage of justice which resulted in a sentence of 100-300 years in the penitentiary was directly caused by the refusal of the state courts to follow the decisions

of this Court

The facts are misstated in the Brief in Opposition, and the "harmless error" rule was misapplied. The decision in this case makes it clear that the state courts still need guidelines for applying the "harmless error" rule. For the purpose of setting those guidelines and to cure the grave injustice done here, we urge you to take this case.

Respectfully submitted,



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